IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 10TH SEPTEMBER 2007 / 19TH BHADRA 1929

WP(C).No. 15666 of 2007(M)

PETITIONER:

M/S.YASORAM BUILDERS, A PARTNERSHIP
FIRM REPRESENTED BY ITS MANAGING PARTNER,
A.R.S.VADHYAR, "YASORAM", CONVENT ROAD,
ERNAKULAM.

BY ADV. SRI.S.R.DAYANANDA PRABHU

RESPONDENTS:

TAHSILDAR, KANAYANNUR TALUK OFFICE,
ERNAKULAM.

BY G.P. SRI. C.K. GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 COPY OF AGREEMENT DATED 18.3.1993 EXECUTED BETWEEN OWNERS OF THE PROPERTY AND M/S. YASORAM CONSTRUCTION COMPANY.

EXT.P2 COPY OF BUILDING PERMIT DATED 22.10.1993

EXT.P3 COPY OF AGREEMENT FOR CONSTRUCTION DATED 4.10.1995 EXECUTED BETWEEN M/S. YASORAM CONSTRUCTION CO. AND MR. OUSEPH VARGHESE.

EXT.P4 COPY OF SALE DEED NO. 1568/96 DATED 29.2.1996 OF MARADU SUB REGISTRY OFFICE.

EXT.P5 COPY OF PROPERTY TAX RECEIPT DATED 8.7.1996 ISSUED BY COCHIN CORPORATION IN FAVOUR OF OUSEPH VARGHESE.

EXT.P6 COPY OF NOTICE DATED 11.1.2007 ISSUED BY THE RESPSONDENT.

EXT.P7 COPY OF COVERING LETTER DATED 8.2.2007 ISSUED BY THE PETITIONER TO THE RESPONDENT.

EXT.P8 COPY OF PROCEEDINGS DATED 26.2.2007

EXT.P9 COPY OF ASSESSMENT ORDER DATED 26.2.2007

EXT.P10 COPY OF NOTICE OF DEMAND DATED 26.2.2007 ISSUED TO THE PETITIONER.

RESPONDENTS' EXHIBITS: NIL.

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 15666 OF 2007

Dated this the 10th day of September, 2007

JUDGMENT

Even though petitioner has raised a technical objection that builder is Yasoram Construction and not Yasoram Builders, it is obvious that both are owned by one and the same group. Therefore instead of raising technical objection, petitioner is bound to furnish copies of documents and construction agreements with the flat owners before the respondent for regular assessment of the flat complex under the provisions of the Kerala Building Tax Act. Since the issue is covered by several decisions of this Court, W.P. is disposed of directing the respondent to complete the assessment based on returns and documents to be produced by Yasoram Constructions. If petitioner furnishes copies of agreements and address of purchasers of the flats and establish case for separate assessments, respondent will issue notice to the owners or the association of owners and make assessments on them, failing which assessment and demand will be raised on Yasoram Constructions and recovery will be made from

them. The amount paid by the petitioner will be adjusted towards demand based on assessment and it is for the petitioner to recover the same from flat owners. If flat owners make payments petitioner should be granted refund. Respondent is directed to complete the assessment as directed above within two months from the date of production of a copy of this judgment. As and when regular assessments are made impugned orders will be withdrawn.

(C.N.RAMACHANDRAN NAIR)
Judge